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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,227	05/11/2001	Douglas Allan Royce	4519RC2R2	6354

27752 7590 11/15/2006

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EXAMINER

WEBMAN, EDWARD J

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/853,227

Applicant(s)

ROYCE ET AL.

Examiner

Edward J. Webman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,6-23 and 25-39 is/are pending in the application.
4a) Of the above claim(s) 13,17 and 28-37 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1, 3, 6-12, 14-16, 18-23, 25-27, 38, 39 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/17/06
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 6-12, 14-16, 18-23, 25, 26, 38, 39 rejected under 35 U.S.C. 102(e) as being anticipated by Guskey (5,977,036).

Guskey teaches 5-50% anionic surfactant, 0.025-3% cationic polymer with a charge density of 0.2-7 meq/gm and a molecular weight of 5K to 10 million, 0.1-10% water insoluble hair styling polymer and water (abstract). Polyquaternium 11 polymer GAFQUAT 755N and Polyquaternium 24 polymer LM-200 are disclosed (column 7 lines 29-34 and column 8 lines 4-9 respectively). Polydimethylsiloxane is specified (column 22 lines 16-17). Ethylene glycol distearate is disclosed (column 26 line 36). Antidandruff agents are specified (column 17 line 38). Alkyl and alkyl ether sulfates are preferred anionic surfactants (column 3 lines 18-19). Alkyl sulfonates and alkyl ether sulfonates are disclosed (column 4 lines 22-63). 0.5% amphoteric surfactants are specified (column 5 lines 15-19). Surfactant combinations are disclosed (column 3 lines 1-4). As to the claimed complex coacervate formation, such a property must be possessed by the anticipatory composition because it is the same as that claimed.

Applicants argue that Guskey only teaches the Polyquaternium polymer JR 30M, which applicants state has a cationic charge density of 1.25, above the range now claimed. However, Guskey teaches Polyquaternium 11 and 24 polymers, the same as disclosed by applicants on

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page 15 lines 2-9 and page 16 lines 1-3). As to the combination with alkyl or alkyl ether sulfonates, Guskey teaches these as preferred surfactants (column 3 lines 18-19).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guskey.

Guskey is discussed above. However, Guskey does not teach pyridinedione salts.

The examiner takes notice under MPEP 2144.03 that pyridinedione salts are well-known in the art as anti-dandruff agents.

It would have been obvious to one of ordinary skill to add pyridinedione salts to the composition of Guskey because such salts are well-known in the art as anti-dandruff agents.

Applicants argue that there is no teaching to add an anti-dandruff agent in Guskey. However, as cited in the rejection under 35 USC 102, Guskey does so teach.

No claims allowed.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward J. Webman whose telephone number is 571-272-0633.

The examiner can normally be reached on M-F from 8 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. Richter, can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


EDWARD J. WEBMAN
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